

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Deutsche Bank National Trust :
Company, as Trustee for HSI :
Asset Securitization :
Corporation 2006-OPT2 Mortgage :
Pass-Through Certificates, : Case No. 2:07-cv-0196
Series 2006-OPT2, :
:
Plaintiff, :
:
v. : MAGISTRATE JUDGE KEMP
:
James Carl Winnenberg, et al. :
:
Defendants.

OPINION AND ORDER

This foreclosure case is before the Court on Deutsche Bank National Trust Co.'s ("Deutsche Bank") motion to dismiss a named defendant (doc. #5) and a motion for default judgment (doc. #9). The property in question is

Situated in the State of Ohio, County of Franklin, and in the City of Columbus, and bounded and described as follows:

Being Lot Number Ninety-Three (93), in Smokey Row Manor, as the same is numbered and delineated upon the recorded plat thereof, or record in Plat Book, 49, Pages 46 and 46, Recorder's Office, Franklin County, Ohio.

For the following reasons, both motions will be granted.

I.

Procedurally, the Court notes that, pursuant to Fed.R.Civ.P. 55(a), the Clerk has entered default against defendants James Carl Winnenberg, Latina Young, and Jeffrey D. Hoover for failing to plead or otherwise defend this action. Deutsche Bank has now moved for default judgment against Mr. Winnenberg, the individual who executed the promissory note, and Ms. Young, an individual that may

have an interest in the real property in question.

For support, Deutsche Bank has supplied affidavits indicating that both Mr. Winnenberg and Ms. Young are not incompetent or an infant. The affidavits also indicate that the amount of money due on the note at the time of default was \$123,710.86, plus all accrued interest at a rate of 8.2% per annum beginning on September 1, 2006. There also appears to be an unknown amount of unpaid late charges, real estate taxes and assessments, insurance premiums and other expenses.

Additionally, pursuant to Fed.R.Civ.P. 21 Deutsche Bank has moved to dismiss the defendant identified as the "unknown spouse, if any, of James Carl Winnenberg, 2060 Queensbridge Drive, Columbus, Ohio 43235". (Mot. to Dis. (doc. #5)). Deutsche Bank indicates that it has not been able to identify the "unknown spouse." Thus, Deutsche Bank states that the "unknown spouse" is not a necessary party.

These motions are unopposed and ripe for adjudication.

II.

The Court will first address the motion to dismiss the unnamed defendant. It appears that this defendant does not exist or cannot be identified. Accordingly, the motion is granted, and the "unknown spouse, if any, of James Carl Winnenberg, 2060 Queensbridge Drive, Columbus, Ohio 43235" is dismissed from the lawsuit.

The Court will now turn to the motion for default judgment. The Court concludes that Mr. Winnenberg executed a promissory note to purchase the real property in question and defaulted on the note for failing to make the associated monthly payments. The Court further concludes that the amount due on the promissory note is \$123,710.86, plus all accrued interest at a rate of 8.2% per annum beginning on September 1, 2006. There also appears to be an unidentified amount of additional fees, assessments and taxes on

the property. Accordingly, because the Clerk has entered default against Mr. Winnenberg and Ms. Young for failing to plead or defend this lawsuit and because Mr. Winnenberg has defaulted on the promissory note, the Court will grant the motion for default judgment.

III.

The motion to dismiss (doc. #5) and the motion for default judgment (doc. #9) are GRANTED. Deutsche Bank shall, within thirty days, file with the Court additional documentation showing the total amount owed, including principal, interest, fees, assessments and taxes so that these amounts may be incorporated into the final judgment. The parties shall also, within thirty days, submit a proposed order and decree in foreclosure which delineates the amount and priority of all liens and encumbrances on the property so that the Court may order a judicial sale.

/s/ Terence P. Kemp
United States Magistrate Judge